

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2009-051861

09/21/2010

HONORABLE ROBERT BUDOFF

CLERK OF THE COURT

L. Carlson

Deputy

AMERICAN NATIONAL BANK

FREDERICK E DAVIDSON

v.

JOHN NICHOLAS VATISTAS, et al.

COLIN F CAMPBELL

DENNIS I WILENCHIK

KEVIN T AHERN

RULING

This matter was taken under advisement after Oral Argument on Defendants' Motion for Partial Summary Judgment filed June 22, 2010. The Oral Argument occurred on September 16, 2010.

The matters presented have now been considered by the Court.

Defendants' Motion for Partial Summary Judgment is denied.

The Court finds there is a genuine issue of material fact as to whether or not Plaintiff, American National Bank, should have relied in full on the financial statement and loan applications submitted by Defendant Vatistas, especially in light of Vatistas' admission, for purposes of the summary judgment proceeding, that the personal financial statement, the loan applications and the attendant documents submitted by Vatistas to Johnson Bank, MidFirst Bank, Scottsdale Private Bank, and, ultimately, American National Bank, may have been inconsistent.

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Under these circumstances, the Court finds that Vatistas is not entitled to summary judgment as a matter of law as to Plaintiff's Complaint against him for fraud and negligent misrepresentation.

(In this ruling the Court has considered those matters set forth in Defendants' Supplemental Memorandum filed on September 17, 2010, after the Oral Argument.)